

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF LOUISIANA

THE SOCIETY OF LLOYD'S

CIVIL ACTION

VERSUS

NO. 03-2316

JAMES DAVID TUFTS, III, and THOMAS OTTO LIND

SECTION "F"

ORDER AND REASONS

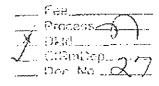
Before the Court is a motion for summary judgment by Lloyd's. For the reasons that follow, the motion is GRANTED.

I. Background

The Society of bloyd's filed this lawsuit against the defendants under the Louisiana Enforcement of Foreign Judgments

DATE OF ENTRY

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Lloyd's also filed a motion for summary judgment against defendant Thomas Otto Lind. Lind, who is represented by the same counsel as James David Tufts, III, did not file an opposition to this motion. Thus, the motion is GRANTED as unopposed.

Act, La.Rev. Stat. § 13:4341, et seq., to enforce a judgement that it obtained against the defendants in the English High Court of Justice, Queens Bench Division, in March 1998. The defendants were members of Lloyd's who underwrote insurance policies for Lloyds. Lloyd's now moves for summary judgment against both defendants.

II. Summary Judgment

Federal Rule of Civil Procedure 56 instructs that summary judgment is proper if the record discloses no genuine issue as to any material fact such that the moving party is entitled to judgment as a matter of law. No genuine issue of fact exists if the record taken as a whole could not lead a rational trier of fact to find for the non-moving party. Matsushita Elec. Indus.

Co. v. Zenith Radio, 475 U.S. 574, 586 (1986). A genuine issue of fact exists only "if the evidence is such that a reasonable jury could return a verdict for the non-moving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

The Court emphasizes that the mere argued existence of a factual dispute does not defeat an otherwise properly supported motion. See id. Therefore, "[i]f the evidence is merely

The second of is not significantly probative." summary judgment is also proper to the sarty opposing the motion fails to establish an essential content of his case. Celotex Corp. v. Catrett, 477 U.S. 317, per 1986). In this regard, the non-moving party must do the simply deny the allegations raised by the moving party with the simply deny the allegations raised by the moving party with (5th Cir. 1992). Rather, he must come forward with the second of the cold (5th Cir. 1992). Rather, he must come forward with the second of the cold of the co

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The substantive defenses available in an action to enforce a foreign judgment include a lack of personal or subject matter

jurisdiction of the rendering court, extrinsic fraud in the procurement of the judgment, satisfaction, lack of due process, or other grounds that make a judgment invalid or unenforceable. However, the nature, amount, or other merits of the judgment may not be relitigated in the state which enforcement is sought.

WellTech, Inc. V. Abadie, 666 So. 2d 1234, 1236 (La. App. 5th Cir. 1996) (citing Ohio v. Kline, 587 So. 2d 766 (La. App. 2d Cir. 1991)). The Court finds that the defenses asserted by James David Tufts, III are not available to attack the validity of the plaintiff's judgment in this case. Tufts, III asserts that he is not the same James David Tufts against whom Lloyd's obtained a judgment. He argues that the Lloyd's judgment might be against his father, James David Tufts, II, who was also a member of Lloyd's and who was involved in the litigation with Lloyd's. The Court is not convinced. The attachment to the May 13, 1998 Order from the English High Court of Justice, Queen's Bench Division, shows that the claims by Lloyd's were against "Mr J D Tufts III." Furthermore, James David Tufts, III was represented by counsel in the English litigation and should have raised the argument that he was not the proper party to the litigation at that time. WellTech, Inc., 666 So.2d at 1236.

Accordingly, the motion for summary judgment by Lloyd's against James David Tufts, III is GRANTED. The motion for summary judgment against Thomas Otto Lind is GRANTED as unopposed.

New Orleans, Louisiana, May 17, 2004.

MARTIN L. C. FELDMAN

UNITED STATES DISTRICT JUDGE